



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,928	05/23/2001	Lin Wang	211534	1613

22908 7590 07/19/2006

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

EXAMINER

HUSON, MONICA ANNE

ART UNIT PAPER NUMBER

1732

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/863,928	Applicant(s) WANG ET AL.	
	Examiner Monica A. Huson	Art Unit 1732	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: although applicant contends that Nakatsuka and Redding do not suggest the instant invention, the examiner maintains her rejections.

Applicant contends that Nakatsuka does not suggest the instant invention because he does not show the conditions specified in the claims of the present application. This is not persuasive because the Nakatsuka does disclose specific conditions under which the product is extruded at Column 8, lines 9-17, 31-33, 49-53; Column 13, lines 31-40; Column 14, lines 5-12, 25-28. For other extrusion conditions not suggested by Nakatsuka, the examiner has cited Altieri, however applicant has not specifically argued this combination.

Applicant contends that Nakatsuka does not suggest the instant invention because he does not show a cold water soluble starch. This is not persuasive because in Table 2, Nakatsuka documents the cold water (i.e. at 25C) solubility of his articles with respect to time. It is being interpreted that since Nakatsuka is measuring solubility in terms of time (i.e. seconds), that the numeral listed for the solubility is actually the time it takes for the specific article to become 100% soluble in the solvent. In Table 2, it is clear that Nakatsuka has measured solubility at temperatures of 40C, 30C, 20C, and 10C, at least two of which would qualify as cold water conditions.


Applicant contends that it is not clear whether Nakatsuka discloses a starch product at all. This is not persuasive because Nakatsuka clearly discusses starch products that are applicable to his invention at Column 5, lines 33-48.

Applicant contends that Nakatsuka and Redding are not properly combinable because Nakatsuka is apparently concerned with heavily-modified starch and Redding is concerned with an unmodified starch. This is not persuasive because Nakatsuka makes several references to the unmodified nature of starches used in his invention (See Column 5, lines 33-38, 46-48; Column 6, lines 67-68; Column 7, line 1). Therefore, it is maintained that the two disclosures are properly combinable and would suggest the instant invention to one of ordinary skill in the art.

Specifically with respect to claim 33 and its dependent claims, applicant contends that Nakatsuka does not suggest the instant invention because he does not show a method wherein the seasoning is adhered to a food substrate. This is not persuasive because although Nakatsuka does not show permanent adhesion, he does disclose packaging food substrates with his seasoning article. It is being interpreted that, when packaged, the extruded seasoning article is adhered, at least temporarily, to the food substrate (See especially Column 11, lines 44-47).



Monica A Huson
13 July 2006



CHRISTINA JOHNSON
PRIMARY EXAMINER
7/14/06